

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEREK TATE,

Plaintiff,

v.

TIARA CALAMIA, et al.,

Defendants.

No. 2:23-cv-1637 CKD P

ORDER

Plaintiff, a California prisoner proceeding pro se, has filed a document the court construes as a motion for reconsideration of the court's May 6, 2024, order dismissing plaintiff's complaint with leave to amend. A court may reconsider a ruling under either Federal Rule of Civil Procedure 59(e) or 60(b). See Sch. Dist. Number. 1J, Multnomah County v. ACandS, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993). "Reconsideration is appropriate if the . . . court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." Id. at 1263.

Plaintiff does not present newly discovered evidence, there has not been a change in the law, the order challenged is not manifestly unjust and there is no clear error.

////

////

////

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for reconsideration (ECF No. 11) is denied.

2. Plaintiff is granted 30 days to file an amended complaint that complies with the court's May 16, 2024, order.

3. Plaintiff's failure to file an amended complaint will result in a recommendation that this action be dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for failure to follow court orders.

Dated: October 3, 2024



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

1  
tate1637.mfr